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17 **UNITED STATES DISTRICT COURT**

18 **DISTRICT OF NEVADA**

19 Cung Le, Nathan Mr. Quarry, Jon Fitch, Brandon
20 Vera, Luis Javier Vazquez, and Kyle Kingsbury,
on behalf of themselves and all others similarly
21 situated,

22 Plaintiffs,

23 v.

24 Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

25
26 Defendant
27
28

No.: 2:15-cv-01045-RFB-(PAL)

**ZUFFA, LLC'S MOTION TO
SEAL PORTIONS OF ZUFFA,
LLC'S REPLY TO PLAINTIFFS'
OPPOSITION TO ZUFFA'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT AS TO
PLAINTIFF NATHAN QUARRY
ON STATUTE OF LIMITATIONS
GROUNDS AND RELATED
DOCUMENTS**

I. INTRODUCTION

Pursuant to the Stipulated Order governing the confidentiality of documents entered by the Court on February 10, 2016, ECF No. 217 (“Protective Order”) and Rule 26(c) of the Federal Rules of Civil Procedure, Defendant Zuffa, LLC (“Zuffa”) respectfully requests that the Court order the Clerk of Court to file under seal those portions of Zuffa’s Reply to Plaintiffs’ Separate Statement of Undisputed Material Facts in Support of Their Opposition to Zuffa, LLC’s Motion for Partial Summary Judgment (“Zuffa’s Reply SSUMF”), collectively (“Zuffa’s Reply Documents”), as redacted in the public versions of those documents.

Zuffa has narrowly tailored its sealing requests in light of the “compelling reasons” standard governing sealing requests related to dispositive motions. This motion is accompanied by the Declaration of Nicholas A. Widnell in Support of Zuffa, LLC’s Motion to Seal Portions of Zuffa’s Reply (“Widnell Declaration”).

II. LEGAL STANDARD

Documents filed in connection with a dispositive motion may be sealed if there are “compelling reasons” to seal those documents. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (citation omitted). Documents attached to summary judgment motions are evaluated under this “compelling reasons” standard. *Id.* (citation omitted).

The “compelling reasons” standard requires a party to “articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure.” *Id.* at 1178-79 (citations and quotation marks omitted). “Compelling reasons” have included preventing: disclosure of “sources of business information that might harm a litigant’s competitive standing,” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (citations omitted); the “release of trade secrets,” *Kamanaka*, 447 F.3d at 1179 (citing *Nixon*, 435 U.S. at 598); and “the release of . . . information [that] would result in an invasion of the privacy interests of third parties.” *GoDaddy.com LLC v. RPost Commc’ns Ltd.*, No. CV-14-00126-PHX-JAT, 2016 WL 1158851, at *5 (D. Ariz. Mar. 24, 2016), on *reconsideration in part*, No. CV-14-00126-PHX-JAT, 2016 WL 1274120 (D. Ariz. Mar. 31, 2016).

The Ninth Circuit has held that certain “confidential and commercially sensitive

information,” including licensing agreements containing “pricing terms, royalty rates, and guaranteed minimum payment terms” meet the “compelling reasons” standard and are properly filed under seal. *In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008) (“Electronic Arts”). The Ninth Circuit noted that these categories of information “plainly fall[] within the definition of ‘trade secrets’ and explained that “a trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” *Id.* (citations and quotation marks omitted). Courts have also held that sales volume and pricing information, sensitive information about a company’s products and processes not typically available to the public, customer identity information, and capital expenditure and development cost information may be properly sealed under the “compelling reasons” standard. *E.g. Triquent Semiconductor, Inc. v. Avago Techs Ltd.*, No. CV 09-1531-PHX-JAT, 2011 WL 6182346, at *2-*8 (D. Ariz. Dec. 13, 2011).

III. ARGUMENT

Zuffa seeks to file under portions of Zuffa’s Reply Documents that contain excerpts of and trade secret information from the deposition of former Zuffa employee Marshall Zelaznik. As explained in detail in Zuffa’s Motion to Seal Portions of Plaintiffs’ Opposition to Zuffa’s Motion for Partial Summary Judgment as to Plaintiff Nathan Quarry on Statute of Limitations Grounds, Zuffa seeks only to seal specific pieces of information that bear on Zuffa’s highly sensitive and confidential business strategy as well as revenue and profit information related to its Fight Pass Product. *See* ECF No. 368. Zuffa does not publicly disclose this information and zealously guards its private profitability, revenue, and related information. Widnell Decl. ¶ 6. The portions of Zuffa’s Reply Documents that are trade secret information that are properly sealed under the “compelling reasons” standard are redacted in the public version of Zuffa’s Reply SSUMF.

IV. CONCLUSION

Zuffa has narrowly tailored its sealing request in light of the Ninth Circuit’s “compelling reasons” standard and respectfully requests, for the foregoing reasons, that the Court find that “compelling reasons” exist such portions of Zuffa’s Reply Documents are properly filed under seal.

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1 Dated: May 1, 2017

Respectfully Submitted,

2 BOIES SCHILLER FLEXNER LLP

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4 By: /s/ Nicholas A. Widnell

Nicholas A. Widnell

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